THE HONOURABLE SRI JUSTICE C.V. RAMULU

WRIT PETITION NO.25635 OF 2006

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DATED: 11-12-2006

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Between:

All India Confederation of Bank Officers Organizations, (AICOBOO) Cooperative Housing Society Limited, TAB- 445, represented by its Secretary.

.. Petitioner

and

Deputy Registrar (H)/ Divl. Cooperative Officer, Golkonda Division, APHB Complex, Near Exhibition Grounds, Nampally, Hyderabad and another

.. Respondents

THE HONOURABLE SRI JUSTICE C.V. RAMULU

W.P.NO.25635 OF 2006

Order:

This writ petition is filed seeking a mandamus declaring the proceedings of the 1st respondent bearing Rc.No.1559/02-H dated 17-11-2006 as arbitrary, illegal and violative of cardinal principles of natural justice; and to set aside the same.

It appears the respondents have obtained a decree against the petitioner herein and thereafter the impugned proceedings dated 17-11-2006 were purported to have been issued under Section 73 of the Andhra Pradesh Co-operative

Societies Act, 1964 making a conditional attachment of the property held by the petitioner society.

There is no necessity to go into all the details. It is suffice to notice Section 73 of the Andhra Pradesh Co-operative Societies Act, 1964 (for short 'the Act'), which reads as under:-

> "**Attachment of property before decision or order:-** If the Registrar is satisfied on application, report, inquiry or otherwise that any person with intent to delay or obstruct the enforcement of any decision or order that may be made against him under the provisions of this Act-
>
> a. is about to dispose of the whole or any part of his property; or
>
> b. is about to remove the whole or any part of his property from the jurisdiction of the Registrar, the arbitrator or liquidator, as the case may be,
>
> he may, unless adequate security is furnished direct the attachment of the said property, and such attachment shall have the same effect as if made by a competent Civil Court."

From the above, it is very clear that Section 73 can be invoked only during the pendency of the decision. In this case, already a decision is made and the respondents are supposed to invoke the execution proceedings and, if there is no provision under the execution proceedings, they can very well invoke a relevant provision as per law and pass orders, but not by invoking Section 73 of the Act.

In view of the above, the writ petition is allowed and the impugned order is set aside giving liberty to the respondents to take appropriate action as per law. No order as to costs.

C.V. RAMULU, J

11-12-2006.

Note:-

Issue order copy in

2 (two) days.

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